



Robert L. Schonfeld
Counsel
Email: rschonfeld@moritthock.com
May 23, 2018

Hon. J. Paul Oetken
United States District Court Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Sutton v. 626 Emmut Properties LTD et al
18 CV 00090 (JPO)

Dear Judge Oetken:

We represent 626 Emmut Properties LTD in this action. This letter is written in response to yesterday's letter from Adam S. Hanski, Esq. which was in reply to our letter seeking an order compelling mediation in this matter in June.

Mr. Hanski's representation that he would be willing to physically appear at the mediation scheduled for next Tuesday is disingenuous. In an e-mail to Mediator F. Peter Phillips on Monday, Mr. Hanski stated that Plaintiff could not attempt to settle the matter until it had an expert report and that a "fruitful mediation" could not be had prior to the expert report. In a subsequent e-mail, Mediator Phillips noted that Mr. Hanski "believes it (the mediation) would be fruitless in the absence of his expert's report" and asked the parties whether they wanted to postpone the mediation. Those e-mails are attached. We declined that invitation due to the discovery schedule set by this Court at a conference on April 12, 2018 and agreed to by Plaintiff's counsel.

We do not oppose Mr. Hanski's request that "the Court extend fact discovery to run concurrently with expert discovery," and based on e-mails from counsel for the other Defendant, we believe that that counsel would also not oppose Mr. Hanski's request.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Schonfeld', written over the word 'Sincerely,'.

Robert L. Schonfeld

Cc: Adam S. Hanski, Esq.
Michael Lehrman, Esq.
F. Peter Phillips

Robert Schonfeld

From: Adam Hanski <ash@parkerhanski.com>
Sent: Monday, May 21, 2018 3:13 PM
To: 'peter.phillips@businessconflictmanagement.com'
Cc: 'michael@lawahl.com'; Glen Parker; Robert Hanski; Robert Schonfeld
Subject: RE: Sutton v. 626 Emmut Properties, Ltd. et al - 18-cv-00090-JPO

Hello Mr. Phillips –

Robert Hanski who is handling this matter has been unable to respond to your email concerning mediation dates. He should be able to respond tonight or early tomorrow.

That being said, as plaintiff has not yet had a Rule 34 inspection of the property he will be unable to settle this matter until after plaintiff's expert inspects and issues the expert report. This report would be shared with defendants to inform them of extant accessibility issues so that the parties are able to have a fruitful mediation.

I also note that Defendant 10TH Avenue Group, Inc. has not yet responded to plaintiff's document demands (responses due May 23, 2018); plaintiff has just received defendant 626 Emmut Properties, LTD's discovery responses and will need to review those as well defendant 10th Avenue Group's responses prior to a mediation.

Best,
Adam Hanski

From: Robert Schonfeld <rschonfeld@moritthock.com>
Sent: Monday, May 21, 2018 1:48 PM
To: 'peter.phillips@businessconflictmanagement.com' <peter.phillips@businessconflictmanagement.com>
Cc: 'michael@lawahl.com' <michael@lawahl.com>; Glen Parker <ghp@parkerhanski.com>; Adam Hanski <ash@parkerhanski.com>; Robert Hanski <rg@parkerhanski.com>
Subject: Re: Sutton v. 626 Emmut Properties, Ltd. et al - 18-cv-00090-JPO

Mr Phillips

We want to meet next week. We have strict discovery timetables from the court and want to see if we can avoid further expenses.

Robert schonfeld

Sent from my wireless handheld

Robert Schonfeld
Of Counsel

Moritt Hock & Hamroff LLP
400 Garden City Plaza
Garden City, NY 11530

Robert Schonfeld

From: F. Peter Phillips <peter.phillips@businessconflictmanagement.com>
Sent: Monday, May 21, 2018 5:08 PM
To: Robert Schonfeld; ash@parkerhanski.com
Cc: michael@lawahl.com; ghp@parkerhanski.com; rgh@parkerhanski.com
Subject: Sutton v. 626 Emmut Properties, Ltd. et al - 18-cv-00090-JPO

Dear Counsel:

Mr. Hanski advises that he is willing to conduct the mediation on May 29 as scheduled, but believes it would be fruitless in the absence of his expert's report. He further advises that his expert can visit the site at 2:30 p.m. Wednesday June 27. If the inspection can in fact take place at that time, then the expert will need a month to prepare the report, which would be available in later July. This in turn implies a rescheduled mediation date of early August.

The Mediation Office will need to be notified to request an extension in the event this mediation is so substantially delayed. Mr. Schonfeld thinks discovery must be completed by mid-August and Mr. Hanski thinks it is mid-September. Finally, I am unavailable the week of August 6 as well as Monday August 20 and 27.

Within those constraints I would like your permission to advise the Mediation Office that the parties will postpone the May 29 mediation and confer with each other to set a new date by the end of this week. Is this acceptable?

F. Peter Phillips
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